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Date 7-7-85

Surname [REDACTED]



[REDACTED]
02 AUG 1985

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for exemption under section 501(c)(9) of the Internal Revenue Code.

The information furnished shows that you are a trust formed on [REDACTED] [REDACTED] [REDACTED], by the City of [REDACTED] (the "City") to provide health and welfare benefits for employees of the City and certain members of their families. The Trust was established to provide a single financing vehicle for all employee benefits available to employees of the City and to ensure that any surplus monies would be used only for employee benefits and not for general operating expenses of the City. None of the benefits are provided as a result of a collective bargaining agreement between the employees and the City. A total of approximately [REDACTED] employees were covered as of date of filing.

Workmen's compensation and unemployment compensation benefits provided by the Trust are fully paid by the City. Health insurance and long-term disability benefits are funded [REDACTED] percent by the City and [REDACTED] percent by the employee. Life insurance is generally funded [REDACTED] percent, except for certain optional extra amounts.

Section 501(c)(9) of the Code provides for the exemption from federal income tax of voluntary employees' beneficiary associations (VEBA) providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-1(c) of the Income Tax Regulations provides that in order to be described in section 501(c)(9) of the Code an organization must be operated for the purposes of providing "life, sick, accident or other benefits" to its members or others specified in the statute. If an organization operates in substantial part for any other purpose, it is not described in that section. This generally means that if one benefit of a VEBA fails to qualify under section 501(c)(9) the entire plan will fail.

Section 1.501(c)(9)-3(c) of the regulations defines sickness and accident benefits as including "an amount paid to a member in lieu of income during a period in which the member is unable to work due to sickness or injury."

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Section 1.501(c)(9)-3(a) of the regulations states that, in providing examples of other benefits, that:

Except to the extent otherwise provided in these regulations, as amended from time to time, "other benefits" also include any benefit provided in the manner permitted by paragraphs (5) et seq. of section 302(c) of the Labor Management Relations Act of 1947, 61 Stat. 136, as amended, 29 U.S.C. 186(c) (1979).

However, the above provision only applies to plans or benefits that are collectively bargained. See Supplementary Information to T.D. 7750, 1981-1 C.B. 338.

Rev. Rul. 74-18, 1974-1 C.B. 139, discusses an association that was formed to provide workmen's compensation benefits to all employees of a specific employer. The association processes and pays claims for workmen's compensation benefits. The state in which the organization operates imposes an obligation on all employers to pay such benefits. The employer remains ultimately liable for all claims arising under the workmen's compensation statutes. Thus, the ruling held that the benefit does not constitute a proper employee benefit within the meaning of section 501(c)(9) because it merely ensures the discharge of an obligation already imposed by statute upon the employer.

According, based on all the facts and circumstances, we conclude that providing workman's compensation does not constitute a permissible activity under section 501(c)(9) of the Code, even though it would be classified as an "other benefit" under section 1.501(c)(9)-3(c) of the regulations. It is for the benefit of the City, not the employees. See Rev. Rul. 74-18, Supra. The fact that it is only one of several permissible benefits would not be determinative. It would constitute more than a substantial, i.e., de minimis, part of the Trust's activities since it is continuous and amounts to at least 15 percent of total activities. See section 1.501(c)(9)-1(c) of the regulations.

You have a right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director, Dallas, Texas. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

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[REDACTED]

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED] [REDACTED] [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]

Chief, Exempt Organizations
Rulings Branch

[REDACTED]

[REDACTED]

[REDACTED]

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]					
Date	7-25-85	7/31/85					